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LORI HUDSON FLANERY
Secretary

THOMAS B. MILLER
Commissioner

In the matter of:

[REDACTED] INC.

Contact: [REDACTED], Inc.

FINAL RULING NO. 2015-33
August 14, 2015

Sales and Use Tax Assessments
For the periods July 1, 2007 through December 31, 2010

FINAL RULING

Kentucky Department of Revenue ("DOR") has an outstanding sales and use tax assessment against [REDACTED] Inc. ("[REDACTED]") for the period July 1, 2007 through December 31, 2010. The following schedule reflects the total underpayment of tax represented by the assessment, including applicable interest accrued to date:

Period	Tax Due	Interest As of 8/14/15	Penalty	Total
07/01/07-12/31/07	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
01/01/08-12/31/08	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
01/01/09-12/31/09	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
01/01/10-12/31/10	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Totals	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

During the period of audit, [REDACTED] operated primarily as a youth sports business. It organized basketball, soccer, and various other sports leagues for children of all ages; sold concessions for the participants and the general public; and also operated a physical fitness center at the same location located in [REDACTED], Kentucky.

██████████ is registered as a nonprofit corporation with Kentucky Secretary of State on ██████████, 2004, but did not file for a sales and use tax number until ██████████, 2007.

██████████ timely protested the assessment, expressing disagreement with the entire assessment relating to unallowable deductions and additional receipts.

DOR requested documentation necessary to address ██████████'s protested liability. After numerous requests, ██████████ provided sufficient supporting documentation to warrant adjustment to only a portion of the unallowable deductions in the assessment to the amount shown in the schedule above.

The assessment issued by DOR to ██████████ is presumed to be correct, with the burden of proving otherwise resting squarely upon the taxpayer, or in this case, ██████████. Hahn v. Allphin, 282 S.W.2d 824 (Ky. 1955); KRS 139.260. ██████████ has offered no valid documentation that would meet its burden of proof. The information ██████████ has provided does not refute the findings of DOR's assessment. Thus, DOR has been provided with nothing that would show or indicate that the remaining assessment at issue is incorrect.

As indicated above, a penalty has been assessed pursuant to KRS 131.180(2) because of ██████████'s failure to have timely paid at least 75% of the tax determined to be due by the DOR. ██████████ has provided nothing that would indicate that this penalty was erroneously applied or that it should be waived or abated.

Therefore, the outstanding sales and use tax assessments totaling \$██████████ (plus applicable interest and penalties) are deemed legitimate liabilities of ██████████, Inc. due the Commonwealth of Kentucky.

This letter is the final ruling of the Department of Revenue.

APPEAL

You may appeal this final ruling to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.110, KRS 131.340-131.365, 103 KAR 1:010 and 802 KAR 1:010. If you decide to appeal this final ruling, your petition of appeal must be filed at the principal office of the Kentucky Board of Tax Appeals, 128 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, within thirty (30) days from the date of this final ruling. The rules of the Kentucky Board of Tax Appeals, which are set forth in 802 KAR 1:010, require that the petition of appeal must:

1. Be filed in quintuplicate;
2. Contain a brief statement of the law and facts in issue;
3. Contain the petitioner's or appellant's position as to the law and facts; and
4. Include a copy of this final ruling with each copy of the petition of appeal.

The petition of appeal must be in writing and signed by the petitioner or appellant. Filings by facsimile or other electronic means shall not be accepted.

Proceedings before the Kentucky Board of Tax Appeals are conducted in accordance with 103 KAR 1:010, 802 KAR 1:010 and KRS 131.340-131.365 and KRS Chapter 13B. Formal hearings are held by the Board concerning the tax appeals before it, with all testimony and proceedings officially reported. Legal representation of parties to appeals before the Board is governed by the following rules set forth in Section 3 of 802 KAR 1:010:

1. An individual may represent himself in any proceedings before the Board where his individual tax liability is at issue or he may obtain an attorney to represent him in those proceedings;
2. An individual who is not an attorney may not represent any other individual or legal entity in any proceedings before the Board;
3. In accordance with Supreme Court Rule 3.020, if the appealing party is a corporation, trust, estate, partnership, joint venture, LLC, or any other artificial legal entity, the entity must be represented by an attorney on all matters before the Board, including the filing of the petition of appeal. If the petition of appeal is filed by a non-attorney representative for the legal entity, the appeal will be dismissed by the Board; and
4. An attorney who is not licensed to practice in Kentucky may practice before the Board only if he complies with Rule 3.030(2) of the Rules of the Kentucky Supreme Court.

You will be notified by the Clerk of the Board of the date and time set for any hearing.

Sincerely,

DEPARTMENT OF REVENUE



Attorney Manager

Office of Legal Services for Revenue